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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID TOMASELLO,

Plaintiff - Appellant,

v.

NORTH ARKANSAS WHOLESALE,
INC.; et al.,

Defendants - Appellees.

No. 07-16638

D.C. No. CV-06-02078-JAT

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Honorable James A. Teilborg, U.S. District Judge, Presiding

Submitted April 15, 2008^{**}

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is an appeal from the district court's dismissal of appellant's civil action for failure state a claim sufficient to establish federal question jurisdiction and failure to establish diversity jurisdiction under 28 U.S.C. § 1332.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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The court has received and reviewed appellant's response to the court's February 14, 2008 order to show cause and the responses and reply thereto. A review of the record and these responses indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.